

**Executive Summary – Enforcement Matter – Case No. 49905**  
**Gardner Glass Products, Inc.**  
**RN100242973**  
**Docket No. 2015-0055-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Gardner Glass Products, 7553 Highway 75 South, Huntsville, Walker County

**Type of Operation:**

Mirror manufacturing plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** May 8, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$46,875

**Amount Deferred for Expedited Settlement:** \$9,375

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$3,125

**Total Due to General Revenue:** \$34,375

Payment Plan: 11 payments of \$3,125 each

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

**Executive Summary – Enforcement Matter – Case No. 49905  
Gardner Glass Products, Inc.  
RN100242973  
Docket No. 2015-0055-AIR-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 12, 2014 through January 5, 2015

**Date(s) of NOE(s):** January 8, 2015

***Violation Information***

Failed to comply with the natural gas usage limit. Specifically, the Respondent exceeded the natural gas usage limit of 1.72 million standard cubic feet (“MMscf”) per any rolling 12-month period at the Regenerative Thermal Oxidizer for the 12-month periods ending from August 2012 through December 2014, during which the natural gas usage was between 1.95 and 3.63 MMscf [30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit No. 18495, Special Conditions No. 5C(1), and Federal Operating Permit No. O3448, Special Terms and Conditions No. 3].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

The Order will require the Respondent to:

- a. Within 30 days, implement measures and/or procedures designed to ensure compliance with the natural gas usage limit; and
- b. Within 45 days, submit written certification to demonstrate compliance with a.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 49905  
Gardner Glass Products, Inc.  
RN100242973  
Docket No. 2015-0055-AIR-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jennifer Nguyen, Enforcement Division,  
Enforcement Team 5, MC 149, (512) 239-6160; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Randy Brooks, President, Gardner Glass Products, Inc., P.O. Box 1570,  
North Wilkesboro, North Carolina 28659

**Respondent's Attorney:** N/A





## Penalty Calculation Worksheet (PCW)

TCEQ

<b>DATES</b>	<b>Assigned</b>	13-Jan-2015	<b>Screening</b>	13-Jan-2015	<b>EPA Due</b>	
	<b>PCW</b>	18-Feb-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Gardner Glass Products, Inc.	
<b>Reg. Ent. Ref. No.</b>	RN100242973	
<b>Facility/Site Region</b>	12-Houston	<b>Major/Minor Source</b> Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49905	<b>No. of Violations</b>	1
<b>Docket No.</b>	2015-0055-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jennifer Nguyen
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$37,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>25.0%</b> Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$9,375
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Notes: Enhancement for one NOV with same/similar violations and one order with denial of liability.

<b>Culpability</b>	No	<b>0.0%</b> Enhancement	<b>Subtotal 4</b>	\$0
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	<b>0.0%</b> Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$1,473
Estimated Cost of Compliance	\$10,000

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$46,875
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>0.0%</b>	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$46,875
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$46,875
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<b>DEFERRAL</b>	<b>20.0%</b> Reduction	<b>Adjustment</b>	-\$9,375
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$37,500
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Screening Date 13-Jan-2015

Docket No. 2015-0055-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 4 (April 2014)

Case ID No. 49905

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same/similar violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 13-Jan-2015

Docket No. 2015-0055-AIR-E

PCW

Respondent Gardner Glass Products, Inc.

Policy Revision 4 (April 2014)

Case ID No. 49905

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN100242973

Media [Statute] Air

Enf. Coordinator Jennifer Nguyen

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 116.115(c) and 122.143(4), Tex. Health & Safety Code § 382.085(b), New Source Review Permit No. 18495, Special Conditions No. 5C(1), and Federal Operating Permit No. O3448, Special Terms and Conditions No. 3

Violation Description

Failed to comply with the natural gas usage limit. Specifically, the Respondent exceeded the natural gas usage limit of 1.72 million standard cubic feet ("MMscf") per any rolling 12-month period at the Regenerative Thermal Oxidizer for the 12-month periods ending from August 2012 to December 2014, during which the natural gas usage was between 1.95 and 3.63 MMscf.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 10

852 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$37,500

Ten quarterly events are recommended for the period of non-compliance from August 31, 2012 to December 31, 2014.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$37,500

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,473

Violation Final Penalty Total \$46,875

This violation Final Assessed Penalty (adjusted for limits) \$46,875

## Economic Benefit Worksheet

**Respondent** Gardner Glass Products, Inc.  
**Case ID No.** 49905  
**Reg. Ent. Reference No.** RN100242973  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Aug-2012	11-Aug-2015	2.95	\$1,473	n/a	\$1,473

Notes for DELAYED costs

Estimated cost to implement measures and/or procedures designed to ensure to comply with the natural gas usage limit. The Date Required is the first date of non-compliance. The Final Date is the estimated date of compliance.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

**TOTAL**

\$1,473



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600135008, RN100242973, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN600135008, Gardner Glass Products, Inc. **Classification:** SATISFACTORY **Rating:** 11.09

**Regulated Entity:** RN100242973, GARDNER GLASS PRODUCTS **Classification:** SATISFACTORY **Rating:** 11.09

**Complexity Points:** 15 **Repeat Violator:** NO

**CH Group:** 14 - Other

**Location:** 7553 HIGHWAY 75 S HUNTSVILLE, TX 77340-2485, WALKER COUNTY

**TCEQ Region:** REGION 12 - HOUSTON

### ID Number(s):

**AIR OPERATING PERMITS** ACCOUNT NUMBER WA0041A  
**INDUSTRIAL AND HAZARDOUS WASTE** SOLID WASTE  
REGISTRATION # (SWR) 34627

**AIR OPERATING PERMITS** PERMIT 3448  
**WASTEWATER** EPA ID TX0102121

**AIR NEW SOURCE PERMITS** PERMIT 18495  
**AIR NEW SOURCE PERMITS** AFS NUM 4847100017

**AIR NEW SOURCE PERMITS** ACCOUNT NUMBER WA0041A  
**STORMWATER** PERMIT TXR05W417

**AIR EMISSIONS INVENTORY** ACCOUNT NUMBER  
WA0041A

**POLLUTION PREVENTION PLANNING** ID NUMBER  
P02045

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** January 13, 2015

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** January 13, 2010 to January 13, 2015

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jennifer Nguyen

**Phone:** (512) 239-6160

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 08/17/2012 ADMINORDER 2011-0621-AIR-E (1660 Order-Agreed Order With Denial)  
Classification: Major  
Citation: 30 TAC Chapter 122, SubChapter B 122.121  
30 TAC Chapter 122, SubChapter C 122.241(b)  
5C THSC Chapter 382 382.054  
5C THSC Chapter 382 382.085(b)

Description: Failed to submit an application for renewal at least six months prior to expiration of a Federal Operating Permit ("FOP") and continued to operate the Plant after the permit expired. Specifically, the Respondent failed to renew FOP No. O-2765 before the permit expiration date of June 15, 2010

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

Description: Failed to operate the regenerative thermal oxidizer ("RTO") at a temperature of no less than 1400°F at all times when volatile organic compounds are routed to the RTO. Specifically, records indicated that the RTO was operated below the minimum allowed temperature on April 20, 2009, April 22, 2009, and April 27, 2009 with temperatures ranging between 1025°F and 1275°F.

Classification: Minor

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)

30 TAC Chapter 122, SubChapter B 122.145(2)(A)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP #O-02765, General Terms and Cond. OP

Description: Failed to include all deviations in deviation reports. Specifically, the deviation report for the period of December 16, 2008 through June 15, 2009 did not contain deviations for the failure to maintain the RTO minimum operating temperature in April of 2009 and the deviation report for the period of June 16, 2009 through December 15, 2009 did not contain deviations for the failure to perform quarterly emissions evaluations.

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP #O-02765, ST&C 3 OP

NSR #18495, SC 3B. PERMIT

Description: Failed to perform required quarterly visible emissions monitoring. Specifically, quarterly visible emissions monitoring was not conducted at the Silvering (Ammonia) Process Stack [Emission Point No. ("EPN") 1] and the Activating Process Stack (EPN 2).

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter G 116.715(a)

30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov:FOP #O-02765, ST&C 3 OP

NSR #18495, GC 9. PERMIT

Description: Failed to properly maintain and operate a control device. Specifically, a routine annual inspection was conducted on the RTO on January 22, 2010 which identified a damaged thermocouple and noted degradation and plugging of the ceramic media bed necessitating replacement and the Respondent was unable to provide documentation that the repairs had been completed.

## B. Criminal convictions:

N/A

## C. Chronic excessive emissions events:

N/A

## D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 June 15, 2012 (1007953)

## E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	08/22/2014 (1172339)	CN600135008
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(c) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Terms and Conditions 3 PERMIT Special Terms and Conditions 5C(1) PERMIT	
	Description:	Failure to maintain the natural gas usage under the permitted quantities. Category B18	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 116, SubChapter B 116.115(b)(2)(F) 30 TAC Chapter 122, SubChapter B 122.143(4) 5C THSC Chapter 382 382.085(b) Special Condition 1A PERMIT Special Terms and Condition 3 PERMIT	
	Description:	Failure to maintain the hourly emissions below permitted levels. Category B14	

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
GARDNER GLASS PRODUCTS,  
INC.  
RN100242973**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY  
§**

## **AGREED ORDER DOCKET NO. 2015-0055-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Gardner Glass Products, Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a mirror manufacturing plant located at 7553 Highway 75 South in Huntsville, Walker County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 13, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Six Thousand Eight Hundred Seventy-Five Dollars (\$46,875) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand One

Hundred Twenty-Five Dollars (\$3,125) of the administrative penalty and Nine Thousand Three Hundred Seventy-Five Dollars (\$9,375) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Thirty-Four Thousand Three Hundred Seventy-Five Dollars (\$34,375) of the administrative penalty shall be payable in 11 monthly payments of Three Thousand One Hundred Twenty-Five Dollars (\$3,125) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Plant, the Respondent is alleged to have failed to comply with the natural gas usage limit, in violation of 30 TEX. ADMIN. CODE §§ 116.115(c) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), New Source Review Permit No. 18495, Special Conditions No. 5C(1), and Federal Operating Permit No. O3448, Special Terms and Conditions No. 3, as documented during a record review conducted from December 12, 2014 through January 5, 2015. Specifically, the Respondent, exceeded the natural gas usage limit of 1.72 million standard cubic feet ("MMscf") per any rolling 12-month period at the Regenerative Thermal Oxidizer for the 12-month periods ending from August 2012 through December 2014, during which the natural gas usage was between 1.95 and 3.63 MMscf.

## III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

## IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gardner Glass Products, Inc., Docket No. 2015-0055-AIR-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, implement measures and/or procedures designed to ensure compliance with the natural gas usage limit; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Air Section Manager  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the



Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

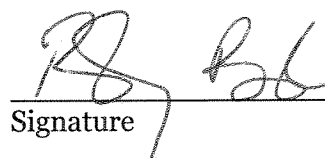
5/29/15  
\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
\_\_\_\_\_  
Signature

3/16/15  
\_\_\_\_\_  
Date

Randy Brooks, President  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Gardner Glass Products, Inc.

President  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.